

**ORDER PURSUANT TO THE DECLARATION OF DISASTER AND EMERGENCY
BOROUGH OF BEACH HAVEN EO-2021-01**

March 5, 2021

**TO ALL RESIDENTS AND PERSONS WITHIN THE MUNICIPALITY OF THE
BOROUGH OF BEACH HAVEN IN THE COUNTY OF OCEAN AND STATE OF NEW
JERSEY AND TO ALL DEPARTMENTS OF THE MUNICIPAL GOVERNMENT OF
THE BOROUGH OF BEACH HAVEN**

WHEREAS, by Order and Declaration dated March 24, 2020, as a result the Novel Coronavirus Disease 2019 (“COVID-19”) pandemic caused by the SARS-CoV-2 virus and pursuant to the powers vested by Chapter 251 of the Public Laws of 1942, as amended and supplemented, N.J.S.A. App. A: 9-30, et seq., N.J.S.A. 40:48-1, et seq., and all applicable statutory law and regulations, as well as Chapter 154 of the Borough Code, the Director of Public Safety and Emergency Management Coordinator authorized and declared that a local disaster/emergency exists within the Borough of Beach Haven (“Borough”);

WHEREAS, the aforesaid laws and declaration of emergency authorize the promulgation of such orders, rules, and regulations as are necessary to meet the various problems which have or may occur due to such an emergency, and

WHEREAS, as a result of and subsequent to the March 24, 2020 Order and Declaration, and pursuant to the authority cited above, the Borough, through its Emergency Management Coordinator issues several Emergency Orders in order to protect the safety, health, and welfare of the people of the Borough of Beach Haven; and

WHEREAS, the state of emergency caused by the COVID-19 Pandemic continues to persist; and

WHEREAS, the Borough wishes to update and consolidate all Emergency Orders issues after the March 24, 2020 Order and Declaration into this Emergency Order.

NOW, THEREFORE, in accordance with the aforesaid laws and aforementioned recitals, which are incorporated herein by reference, it is on this 5th day of March, 2021, **DECLARED AND ORDERED** that until further Order of the Borough that:

1. The Emergency Management Coordinator and the Borough Police Department shall be charged with the enforcement of the terms of this Order; and
2. The March 24, 2020 Proclamation of Local Disaster and Emergency is hereby continued until further written Order and Declaration of the Emergency Management Coordinator;
3. All Emergency Orders of the Borough issued after March 24, 2020, which have not otherwise expired pursuant to their terms or subsequent order are hereby rescinded or otherwise

superseded by this Order;

4. **Temporary Outdoor Seating and Alcohol Extended Premises Permits**

a. Effective immediately, and subject to the Executive Orders of the Governor of this State, the Borough of Beach Haven is hereby granted the authority and discretion to approve site plan applications pertaining to existing full-service restaurants in order to permit said establishments to relocate existing tables/seating to the Borough right-of-way and/or other locations on site, subject to the requirements and restrictions outlined below. All applications shall be subject to approval of the Borough Manager, Chief of Police, Construction Department, and Health Department, in their sole discretion, all individuals having to agree. The Borough's discretion over location, scope, setbacks and size of outdoor seating areas and related structures is absolute and the Borough may condition approval based upon such requirements as any other consideration, including, but not limited to, applicable federal, state or local executive and emergency orders, parking requirements, pedestrian safety, neighborhood concerns and the public health, welfare and safety.

b. "Food or beverage establishment," is defined in Executive Order No. 157 (2020) as "restaurants, cafeterias, dining establishments, and food courts, with or without a liquor license, bars and all other holders of a liquor license with retail consumption privileges." This definition shall apply to "restaurant" herein, and specifically includes liquor license holders.

c. Outdoor restaurant service, where and when permitted by Executive Orders of the Governor, shall comply with all regulations, guidelines, and conditions contained in applicable Executive Orders, including, but not limited to Paragraph 4 of Executive Order No. 157 (2020), guidance and directives of the New Jersey Department of Health, including, but not limited to Executive Directive No. 20-019, and rules, regulations, and special orders of the Division of Alcoholic Beverage Control and Borough of Beach Haven. Some of these restrictions, with which restaurants must comply and about which the Health Dept. and Police Department have received reports of violations include:

- Enforcing social distancing among patrons.
- Requiring patrons to wear face coverings when away from a table and/or ordering from the bar.
- Requiring all bartenders and servers to wear a mask **properly** while on the restaurant premises.
- Limiting the capacity of the restaurant to a number of patrons which enables compliance with social distancing guidelines including at least six (6) feet between patrons.
- Maintaining physical barriers/partitions at bars and counters between workers and patrons, when maintaining six (6) foot social distancing is impractical.

- Preventing congregating of individuals in bar and/or seating areas where social distancing cannot be maintained.
- Maintaining social distancing between groups at bars and other seating areas.
- This list is not an exhaustive list of conditions with which restaurants must comply, but is merely provided by way of example and to demonstrate the complaints identified by the Health Dept.

d. Individual full-service restaurants seeking approval to relocate existing tables/seating to the Borough's pedestrian right-of-way and/or other locations on site, shall be required to submit a site plan application, and a plan depicting the existing and proposed layout and location of tables/seating inside and outside of said restaurant, which shall also include but not be limited to, confirmation of the number of existing, approved tables/seats, a depiction of all aisles, routes of ingress and egress, clearances/distances between tables and between the seating area and the curb line, the location of all food service areas, an illustration, rendering, and/or photograph of all proposed furniture, umbrellas, trash receptacles and any proposed structures to protect the outdoor seating area from the elements. Proposed tables/chairs, furniture, umbrellas, trash receptacles, etc. must be of like nature and appearance to what is currently utilized on site. Applicants shall also submit a brief written narrative describing the proposed method of serving food and beverages in the newly proposed areas. Applications shall be available in the Municipal Clerk's Office or online at the Borough's website. The approval of any temporary site plan in relation to this Order shall be subject to the following conditions:

i. Applicants will be permitted to relocate existing approved tables/seats to other locations on site, including the Borough's pedestrian right-of-way, subject to the review and approval of the Borough Manager, Chief of Police, Construction Department and Health Department. Notwithstanding the provisions of this Order, no tables/seats shall obstruct the free flow of pedestrian traffic or any of its approaches.

ii. No increase in the number of tables/seats will be permitted, and applicants will not be permitted to exceed the number of previously approved tables/seats. The maximum occupancy of a restaurant may be revised at the Borough's discretion in order to ensure that all restaurants comply with the CDC and State recommended/ordered social distancing guidelines.

iii. In addition to the creation and/or expansion of the outdoor seating areas, restaurants shall be permitted to apply to install temporary awnings, tents, pergola and other structures authorized by the Borough to protect the outdoor seating area from the elements.

iv. Tables/seats shall be permitted to be located in the Borough's pedestrian right-of-way provided a minimum 5ft. pedestrian walkway is maintained and provided for the general public, subject to applicable ADA requirements.

v. Any approved tables/seats located in an outdoor dining area are

permitted to be utilized during the following times: (1) Sunday through Thursday evening restaurant service shall end by 12:00 a.m. and all seating areas shall be cleared by 12:15 a.m. Outdoor entertainment shall end at 10:00 p.m.; and (2) Friday and Saturday evening restaurant service shall end by 12:00 a.m. and all seating areas shall be cleared by 12:15 a.m. Outdoor entertainment shall end at 11:00 p.m.

vi. Applicants must submit a Litter Control Plan, which shall include a description of the number and location of trash receptacles proposed to service the outdoor dining area, and the frequency with which the outdoor dining area will be policed for litter in order to control the accumulation of trash/recycling.

vii. The sale/service of alcoholic beverages in these locations shall be permitted, subject to compliance with any and all applicable ABC regulations/statutes, including but not limited to a temporary extension of premises application, and subject to the review and approval of the Borough Clerk and Chief of Police. The approval of any temporary extension of premises application to permit the sale/consumption of alcoholic beverages in outdoor dining areas shall be temporary and shall automatically terminate upon the State of New Jersey rescinding Executive Order 107 and/or the elimination of all social distancing regulations.

viii. Applicants proposing to relocate existing tables/seats to the Borough's pedestrian right-of-way shall indemnify and hold harmless the Borough of Beach Haven, its employees, agents, and/or officers from all claims, losses, liens, expenses, suits and attorney's fees arising out of the placement, operation, and maintenance of the Outdoor Dining Area. Applicants must name the Borough of Beach Haven as an additional insured under the Applicant's general liability insurance, bodily injury, property damage, and personal injury insurance policies, required to have a minimum limit of one million (\$1,000,000.00) Dollars, and provide proof of same to the Zoning Officer, and proof that said policies have been amended to reflect coverage for the proposed outdoor dining area.

e. The Borough of Beach Haven reserves the right to amend, terminate, or repeal this Order at any time, and accordingly no property rights are granted to any person(s) or entities by virtue of this Order. **All person(s) and/or entities electing to pursue temporary relief in accordance with the provisions of this Order are hereby given notice that the expenditure of any funds, or the incurrence of any costs, in reliance upon the provisions of this resolution shall be at their sole and exclusive expense.** All persons and/or entities are hereby given notice that the risk of loss for any expenditure and/or costs incurred shall be their sole and exclusive responsibility.

f. With the exception of the temporary relief set forth herein, Applicants must comply with any and all other federal, state, county, and local laws and regulations, including any and all other existing zoning ordinances and/or general ordinances governing the operation of restaurants

g. In the event the Beach Haven Police Department or Code Enforcement Officer determines that an Applicant is in violation of the conditions of any temporary site plan

approved in relation to this Order, each specific violation of this Order and each day that such violation continues shall be considered a separate violation, the owners of said restaurants shall be subject to potential multiple violations during the course of each day, and each day in violation shall be considered a separate violation. Penalties for violations of this Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50, the Borough Code and the temporary relief granted herein to restaurants may be revised or revoked by the Borough.

5. Curbside Take-Out.

a. Effective immediately, and subject to the Executive Orders of the Governor of this State, the Borough shall review and consider requests for designation of temporary curbside pick-up locations including public parking spaces and/or other locations on site, subject to the requirements and restrictions contained herein. All applications shall be subject to approval of the Borough Manager, Chief of Police and Public Works Superintendent, in their sole discretion, all individuals having to agree. The Borough's discretion over location and quantity is absolute and the Borough may grant conditional approval based upon such requirements and any other consideration, including, but not limited to, applicable federal, state or local executive and emergency orders, parking requirements, pedestrian safety, neighborhood concerns and the public health, welfare and safety.

b. Take-out establishments seeking approval to designate temporary curbside pick-up locations, either in public parking spaces and/or other locations on site, shall be required to submit an online application including a brief description of the proposed curbside take-out plan. Online applications shall be available on the official Borough website. The approval of any temporary curbside pick-up location in relation to this Order shall be subject to the following conditions:

i. Applicants will be required to utilize only the curbside pick-up logo provided by the Borough of Beach Haven. The Borough of Beach Haven Public Works shall paint the approved logo in the public parking spaces designated. No applicant shall be permitted to paint a public parking space on their own. Applicants must use appropriate and additional signage, at their own cost and expense, as deemed appropriate by the Borough and must include the approved logo.

ii. All take-out establishments shall comply with the CDC and State recommended/ordered social distancing guidelines.

6. Outdoor retail displays.

a. Effective immediately, the Borough shall issue Outdoor of Display Permits to any applicant, without fee, and consistent with the provisions of this Order. Retail establishments wishing to conduct sale of merchandise outdoors shall apply for, obtain a permit and be subject to the following conditions:

i. Outdoor displays shall be permitted between the hours of 10:00 AM and 6:00 PM;

ii. Six feet (6') of sidewalk as measured from the curb line must be kept open at all times so as not to block or obstruct the passage of pedestrians;

iii. Merchandise shall be displayed, and maintained, in an orderly fashion allowing for proper social distancing of patrons;

iv. No sales shall be made from trucks or trailers. No truck deliveries shall be made between the hours of 10:00 AM and 6:00 PM during times of the outdoor display;

v. All retail establishments shall comply with CDC and State recommended/ordered social distancing guidelines; and

vi. In the event the Beach Haven Police Department or Code Enforcement Officer determines that an Applicant is in violation of the conditions of the terms and conditions of this section of this Order said establishment shall be required to cease operation of their sidewalk sale and remove all merchandise from the sidewalk immediately.

vii. The Borough hereby waives any fees associated with sandwich board signs utilized by a duly licensed business for the 2021 season. Sandwich board signs shall be limited to one (1) per business.

b. Notwithstanding the foregoing, businesses may conduct outdoor sales without a permit on the days specified by resolution of the governing body.

c. The Borough of Beach Haven reserves the right to amend, terminate, or repeal this Order at any time, and accordingly no property rights are granted to any person(s) or entities by virtue of this Order. **All person(s) and/or entities electing to pursue temporary relief in accordance with the provisions of this Order are hereby given notice that the expenditure of any funds, or the incurrence of any costs, in reliance upon the provisions of this order shall be at their sole and exclusive expense.** All persons and/or entities are hereby given notice that the risk of loss for any expenditure and/or costs incurred shall be their sole and exclusive responsibility.

d. Unless otherwise expressly provided by the Order, all terms and requirements of the Borough Code shall continue to apply to the business establishments. The Borough shall have absolute discretion to amend any approval, condition and restriction set forth in this Order.


7. **Beach Entrances.** All members of the public shall be required to wear face coverings on and within ten (10) feet of all handicap beach entrances, including, but not limited to Pearl St., 5th St. and Center St. In addition to other agencies provided generally in this Order, the Beach Patrol shall have authority to enforce the provisions of this Paragraph. Penalties for violations of this Paragraph may be imposed under, among other statutes, N.J.S.A. App. A:9-49

and -50, and Borough Code. Violations of this order could be punishable by fines of \$250.00 to \$1,500.00 per Ordinance #2020-09C.

8. **Curfew for Minors.** No person 17 years of age and under shall be permitted outside upon a public street, avenue, boulevard, place, walkway, alley, park, or any public area or unimproved private property located in the Borough after 10:00 p.m. and until 5:00 a.m. the following day. Notwithstanding the foregoing, persons under 17 may be permitted outside in any public areas set forth above after 10:00 p.m. and until 5:00 a.m. the following day if they are accompanied by their parent or legal guardian. The beach curfew of 9:00 p.m. remains in effect and is not supplemented or otherwise amended by this Emergency Order.

9. In addition to what may otherwise be provided herein, penalties for violations of this Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50, and the Borough Code.

Dated: 3/6/21



COLLEEN LAMBERT
MAYOR

Dated: 3/5/21



WILLIAM E. TROMM
EMERGENCY MANAGEMENT COORDINATOR